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NOT TO BE PUBLISHED IN OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION THREE

THE PEOPLE, Plaintiff and Respondent, v. ALEXANDER TURLA SAPLALA, Defendant and Appellant.	G044329 (Super. Ct. No. 07HF2354) O P I N I O N

Appeal from a judgment of the Superior Court of Orange County, Lance Jensen, Judge. Affirmed.

Jan B. Norman, under appointment by the Court of Appeal, for Defendant and Appellant.

Kamala D. Harris, Attorney General, Dane R. Gillette, Chief Assistant Attorney General, Julie L. Garland, Assistant Attorney General, Christopher P. Beesley and Peter Quon, Jr., Deputy Attorneys General, for Plaintiff and Respondent.

* * *

A jury convicted defendant Alexander Turla Saplala of committing mayhem (Pen. Code, § 203),[1] aggravated assault (§ 245, subd. (a)(1)), and domestic battery with corporal injury (§ 273.5, subd. (a)). The jury found true the allegations that defendant personally inflicted great bodily injury (§ 12022.7, subd. (e)) when he committed aggravated assault and domestic battery with corporal injury. The court sentenced defendant to a five-year prison term.

On appeal, defendant contends the court improperly denied his pretrial motion to suppress statements he made in a hospital to a police officer. Defendant argues (1) his statements were induced by promises of leniency, and (2) he was not medically or emotionally capable of understanding and waiving his rights under *Miranda v. Arizona* (1966) 384 U.S. 436 (*Miranda*). We disagree and affirm the judgment.

FACTS

In accordance with the usual standard of review, we recite the facts "'in the light most favorable to the People'" and "'presume in support of the judgment the existence of every fact the trier could reasonably deduce from the evidence.'" (*People v. Ochoa* (1993) 6 Cal.4th 1199, 1206.)

Around 8:40 a.m. on November 24, 2007, Officer Derrick Hawkins and other officers responded to a woman's call for assistance at an Irvine apartment. In the living room of the apartment, defendant's wife, Georgette, was sitting on a couch, holding a bloody rag to her nose and mouth. There was blood on the furniture, carpet, and wall of the room. Also in the living room was a bloody sweatshirt and an overturned ottoman. In the upstairs master bedroom, there was blood in the bathroom sink, a bloody

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[1] All statutory references are to the Penal Code.

rag on the floor near the bed, and a hole punched in a closet door. Defendant was not in the apartment.

Blood streamed from Georgette's swollen nose, her lip was lacerated, several of her bottom teeth were loose, and a top tooth was chipped. Her hands were not swollen. Paramedics transported her to the hospital.

At trial Georgette testified that on November 24, 2007, she and defendant had been together three years and eight months, and had been married for seven months. Their relationship had always been tumultuous, particularly toward the end. Many of their arguments centered on Georgette's inability to get along with defendant's mother and his sister-in-law. Prior domestic violence incidents between defendant and Georgette included one in 2006, when Georgette picked up a knife.

On the morning of November 24, 2007, Georgette heard defendant arguing on the phone with his sister-in-law. Georgette picked up the kitchen phone, exchanged "words" with the sister-in-law, and called the sister-in-law "a nosy bitch." Defendant threw his phone at Georgette. Georgette hung up her phone and walked upstairs to the master bedroom. He followed her, shoved her against the stairway wall, and yelled that she was causing him problems with his family. In the bedroom, she sat on the bed. He grabbed her and said they needed to talk. She said, "Don't touch me," and tried to get away. He turned and punched a hole in the closet.

Georgette grabbed a phone, went downstairs to the kitchen, and told defendant to go live with his mother and sister-in-law. In the kitchen, defendant hit her. The next thing she knew, she woke up to find herself lying on the living room floor. "A lot of blood" was coming from her nose and down her face. She was dizzy. She saw defendant's legs and a phone lying on the floor. She reached for the phone. Something hit her again in the face; she saw defendant's foot in front of her when her face was hit. Defendant warned her not to call the police or 911.

She again lost consciousness. When she came to, she heard "walking" and "keys." He said, "You should call 911. You're hurt." She heard the front door shut. She called 911. She stood up, walked to the bathroom, and saw in the mirror what had happened to her face and that her face "was dripping blood."

During the incident, Georgette never touched defendant and never pulled a knife on him. He had threatened to kill himself; she vaguely recalled "something about him with a knife."

At 3:00 p.m. that afternoon, police found defendant in his vehicle parked in Dana Point. He was unconscious in the driver's seat "with the seat reclined all the way back." An officer "banged on the window" and defendant "eventually woke up." Defendant was "extremely disoriented"; it "took a little while for him to realize what was going on." He told officers that he had ingested 100 Tylenol pills. He was handcuffed and transported to the hospital.

An hour later, Officer Hawkins arrived at the hospital where defendant had been admitted as a patient. Hawkins did not interview defendant at that time because he seemed incoherent.

Officer Lance Maples was assigned to sit outside defendant's hospital room. Shortly after midnight, Maples heard a nurse ask defendant if he knew why he was there, to which defendant replied, "Yes, because I beat up my wife." Almost 30 minutes later, defendant said to Maples, "Officer, I ruined my life, didn't I?" Maples said he did not know the facts of the case and defendant would have a chance to tell his story. Defendant replied, "It doesn't matter. I hit her. I know there's no reason for me to hit her." Defendant made these statements spontaneously and *not* in response to questioning by Maples.

At 4:00 a.m., Hawkins returned to the hospital, after learning that defendant was awake and making spontaneous statements. Defendant seemed coherent, able to talk, responsive, and logical. Hawkins read defendant his *Miranda* rights. Defendant

agreed to talk. The officer recorded the conversation until the tape ran out. At trial, the recording was played for the jury.

Defendant told Hawkins the following: He "snapped" and lost control when Georgette called his sister-in-law a "cunt" during the phone conversation. Defendant hit and kicked Georgette in her stomach and all over. Defendant did not know how many times he struck Georgette or how all the blood got on the floor. Georgette did not attack him and he was not defending himself when he struck her. He punched a hole in the bedroom closet door. He chased Georgette downstairs because he thought she was about to call the police. He did *not* kick Georgette in the face. After he attacked Georgette, he swallowed Tylenol pills to end his life.

Hawkins saw that defendant's right hand was swollen and had an abrasion, and his wrist had a cut on it.

Georgette was hospitalized for three days. An oral surgeon and a plastic surgeon repaired her teeth, nose, and lip. Her nose was broken. Her bottom teeth were bent inward and had to be wired into her gums. Her top tooth was chipped. Her bottom lip was "spread apart into two pieces like a v" and had to be stitched together. The right side of her face was bruised and swollen. Her plastic surgeon testified that in his opinion, her injuries were consistent with at least two blows with a hard object such as a fist or foot.

DISCUSSION

The Court Did Not Err by Denying Defendant's Suppression Motion

Defendant challenges the court's denial of his pretrial motion to suppress his hospital statements to Hawkins. Defendant contends his statements were induced by Hawkins's improper promises of leniency. Defendant further asserts that, at the time he

made the statements, he was not medically or psychologically capable of understanding and waiving his *Miranda* rights.

1. Background

In a pretrial motion, defendant sought to suppress the admission into evidence of statements he made at the hospital. At the hearing on the admissibility of defendant's hospital statements to Hawkins, Hawkins testified as follows. He first came to the hospital at 4:00 p.m. on November 24, 2007, but left because defendant was not coherent enough to be interviewed. Hawkins returned to the hospital about 12 hours later — around 4:00 a.m. — after learning defendant was "coming out of it." Hawkins was dressed in police uniform. Defendant seemed coherent and was able to talk and answer questions. Hawkins read defendant his *Miranda* rights. Defendant said he understood and agreed to talk with Hawkins. They talked for about 45 minutes. Hawkins told him that the officers had previously talked with his wife so they "wanted to get his side of the story." Defendant said he had lost control or snapped when his wife called his sister-in-law a "cunt." Hawkins denied offering defendant any promises, guarantees, or offers of leniency. Defendant seemed coherent and appeared to understand the conversation. Defendant did not seem slow to respond to, or confused by, Hawkins' questions. He did not seem to be under the influence of a drug. Hawkins was at defendant's bedside. Defendant had an intravenous line (I.V.) at the time. He appeared to be dehydrated. His answers sometimes rambled.

Defendant testified at the hearing. He did not recall talking to an officer in the parking lot where he took 100 Tylenol PM pills nor did he recall being taken by the paramedics to the hospital. He did not recall having a conversation with Hawkins on the morning of November 25, 2010 or being Mirandized or interrogated by Hawkins. On cross-examination, he testified he was not saying he did not make the statements; rather, he did not remember making them.

The court denied defendant's motion to suppress his statements to Hawkins. Looking at the totality of the circumstances, the court found: (1) no "psychological coercion or promises of leniency," and (2) defendant "was coherent and understood what was going on."

2. Relevant Legal Principles

A criminal defendant's waiver of *Miranda* rights is effective only if ""made voluntarily, knowingly and intelligently."" (*People v. Combs* (2004) 34 Cal.4th 821, 845.) The inquiry is twofold: "'First, the relinquishment of the right must have been voluntary in the sense that it was the product of a free and deliberate choice rather than intimidation, coercion, or deception. Second, the waiver must have been made with a full awareness of both the nature of the right being abandoned and the consequences of the decision to abandon it.'" (*Ibid.*)

A "'suspect [may] not be subjected to custodial interrogation unless he or she knowingly and intelligently has waived the right to remain silent, to the presence of an attorney, and, if indigent, to appointed counsel.' [Citations.] After a knowing and voluntary waiver, interrogation may proceed '"until and unless the suspect clearly requests an attorney.'" [Citation.] The prosecution bears the burden of demonstrating the validity of the defendant's waiver by a preponderance of the evidence." (*People v. Dykes* (2009) 46 Cal.4th 731, 751 (*Dykes*).)

"In considering a claim on appeal that a statement or confession is inadmissible because it was obtained in violation of a defendant's *Miranda* rights, we 'review independently the trial court's legal determinations . . . . We evaluate the trial court's factual findings regarding the circumstances surrounding the defendant's statements and waivers, and "'accept the trial court's resolution of disputed facts and inferences, and its evaluations of credibility, if supported by substantial evidence.'"'" (*Dykes, supra,* 46 Cal.4th at p. 751.)

A confession is involuntary if a defendant's will is overborne, such that the choice to confess was not """"essentially free."""" (*People v. Boyette* (2002) 29 Cal.4th 381, 411.) In assessing voluntariness, a court applies a """"totality of circumstances"""" test, taking into account (1) the length, location, and continuity of the interrogation; (2) the defendant's maturity, education, physical and mental condition, and (3) most importantly, whether the """"crucial element of police coercion"""" was present. (*Ibid.*)

"The line to be drawn between permissible police conduct and conduct [inducing] an involuntary statement does not depend upon the bare language of inducement but rather upon the nature of the benefit to be derived by a defendant if he speaks the truth, as represented by the police. Thus, 'advice or exhortation by a police officer to an accused to "tell the truth" or that "it would be better to tell the truth" unaccompanied by either a threat or a promise, does not render a subsequent confession involuntary.'" (*People v. Hill* (1967) 66 Cal.2d 536, 549.) "When the benefit pointed out by the police to a suspect is merely that which flows naturally from a truthful and honest course of conduct, we can perceive nothing improper in such police activity. On the other hand, if in addition to the forgoing benefit, or in the place thereof, the defendant is given to understand that he might reasonably expect benefits in the nature of more lenient treatment at the hands of the police, prosecution or court in consideration of making a statement, even a truthful one, such motivation is deemed to render the statement involuntary and inadmissible. The offer or promise of such benefit need not be expressed, but may be implied from equivocal language not otherwise made clear." (*Ibid.*)

"[T]he trial court's legal conclusion as to the voluntariness of a confession is subject to independent review on appeal. [Citations.] The trial court's resolution of disputed facts and inferences, its evaluation of credibility, and its findings as to the circumstances surrounding the confession are upheld if supported by substantial evidence." (*Dykes*, *supra*, 46 Cal.4th at p. 752.)

Defendant's Statements to Hawkins Were Made Voluntarily, Knowingly, and Intelligently

We independently review the totality of the circumstances to determine whether defendant made his statements to Hawkins voluntarily. We review for substantial evidence the court's finding that defendant made those statements knowingly and intelligently, since that finding involved disputed facts and witness credibility. As to this last inquiry, substantial evidence shows defendant had the mental and emotional capacity to waive his *Miranda* rights and speak with Hawkins. Hawkins testified defendant seemed coherent and able to answer questions, and did not seem to be under the influence of any drug.

As to the first inquiry, the trial court found Hawkins made no promises of leniency and applied no psychological coercion. Our independent review of the transcript of Hawkins's interview with defendant leads us to the same conclusion.[2]

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[2] Hawkins reiterated several times he wanted to hear defendant's side of the story. At one point, the following colloquy took place: Defendant: "Whatever I say is going to get me that much more trouble." "How can it help it me out?" Hawkins: "You know, it's going to be people *** listening to your story based on what's uh, documented in our report . . . ."

Later, another exchange took place: Defendant: "I'll be in jail." Hawkins: "You may or not." Defendant: "I will." Hawkins: "But the most important thing that you need to do is help . . . yourself. And that is *** on what happened?"

In a subsequent exchange, Hawkins questioned defendant about a prior incident when defendant went to jail for pushing his wife. Hawkins: "Okay, so you've been arrested before for pushing your wife down, and then getting bailed out, and going home, right?" Defendant: "by police, or the . . . D.A., or whatever, is not going to pursue it." Hawkins: "How come? So, did you know when ***time that it wasn't? Did you know what the outcome would be? ***So, that's where we're at now . . . just hold on, you give us two sides of the story, and that's we're at now, and that's why I came in early to talk to you because I wanted to get your side of the story, and that way I could account on what happened. As you said before, honestly that you were arrested before went to jail, and then you ended up going home continue to be with your wife. That's because all the facts were there, but right now only facts I have are from her side. I don't have any facts from your side."

Under the totality of the circumstances, defendant's statements were voluntary. The trial court properly denied defendant's motion to suppress his statements made to Hawkins.

DISPOSITION

The judgment is affirmed.

IKOLA, J.

WE CONCUR:

BEDSWORTH, ACTING P. J.

MOORE, J.